

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

FCA US LLC

and

SHERI ANOLICK,

and

BEVERLY SWANIGAN,

and

BRIAN KELLER

Case 07-CA-213717

Case 07-CA-213746

Case 07-CA-213748

AND

**INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW), AFL-CIO**

and

SHERI ANOLICK

and

BEVERLY SWANIGAN

and

BRIAN KELLER

Case 07-CB-213726

Case 07-CB-213747

Case 07-CB-213749

ORDER

The Respondent FCS US LLC's Motion for Summary Judgment is denied. The Respondent has failed to establish that there are no genuine issues of material fact warranting a hearing and that it is entitled to judgment as a matter of law.

The Respondent maintains that the initial charges in this case were served more than six months after the Charging Parties had knowledge of their claims and, as a result, the charges are time-barred by Section 10(b). According to the Respondent, the

Charging Parties discovered the factual basis for the charges on July 26, 2017, and were therefore required to file and serve the charges by Friday, January 26, 2018 – six months from July 26, 2017. Because the charges were not served until Monday January 29, 2018, the Respondent argues that summary judgment should be granted in its favor pursuant to Section 102.24(b) of the Board's Rules and Regulations. We disagree. Consistent with our May 5, 2020 Order denying the Respondent's Motion to Dismiss the consolidated complaint on the same grounds, we find no merit in its contentions that the Board lacks jurisdiction over this matter under Section 10(b) of the Act.

The Board has long held that the day of the act or event giving rise to the unfair labor practice is not counted in computing the 6-month 10(b) limitation period. *MacDonald's Industrial Products, Inc.*, 281 NLRB 577 (1986).¹ See also *Baltimore Transfer Co. of Baltimore City, Inc. (Local 369, Drivers)*, 94 NLRB 1680, 1682 (1951) (the computation of the 6-month period, after which the proviso of Section 10(b) extinguishes the right to initiate proceedings, must exclude the day on which the unfair labor practice took place). Consequently, assuming *arguendo* that the Respondent is correct and the Charging Parties were on notice of the facts underlying the charges on July 26, 2017, the 10(b) period did not begin to run until July 27, 2017, and the last day of the limitation period was Saturday January 27, 2018. However, Section 102.2 of the Board's Rules and Regulations provides that if the last day of a time period "is a

¹ The Board's Rules and Regulations similarly does not count the day of an act toward the relevant time period. Section 102.2(a) states, in pertinent part, "[i]n computing any period of time prescribed or allowed by these rules, the day of an act, event, or default after which the designated period of time begins to run is not to be counted."

Saturday, Sunday, or a legal holiday,” then “the period runs until the next Agency business day.” Here, the next Agency business day was Monday, January 29, 2018. We therefore conclude, contrary to the Respondent, that the initial charges were timely filed and served.

Dated, Washington, D.C., August 26, 2020.

JOHN F. RING,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER